

III. Remarks

This Amendment is being submitted concurrently with an RCE request. In accordance with 37 C.F.R. §1.114(d), this RCE serves as a request to withdraw the appeal pending in this application. Claims 1, 4, 12, and 23 are pending in the application. Claim 1 is currently amended. Reconsideration of the presently pending claims is respectfully requested in light of the above amendments and the following remarks.

Rejections Under 35 U.S.C. §112

Claim 1 stands rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the written description requirement. Applicant traverses this rejection on the basis that claim 1 as currently amended is fully supported by the original specification. For example, support can be found at page 14, lines 13-14 and lines 21-23; page 15, lines 5-11; and FIG. 2 and 7 of the original specification.

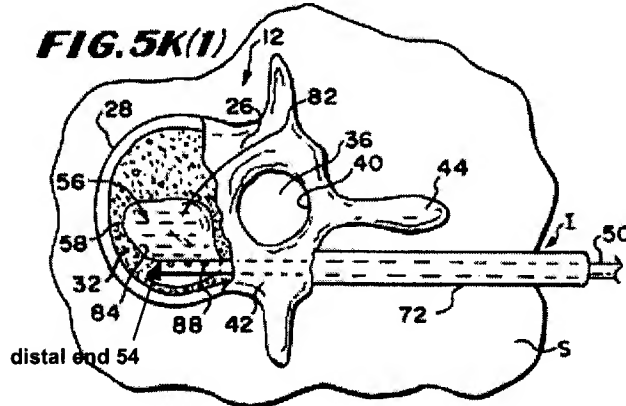
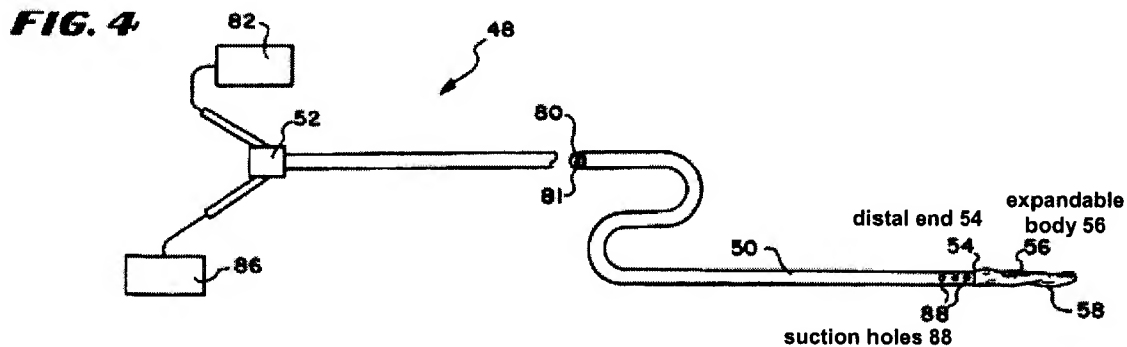
Rejections Under 35 U.S.C. §102

Reiley

Pending claims 1, 4, 12, and 23 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,248,110 to Reiley et al. ("Reiley"). The PTO provides in MPEP §2131 that, "[t]o anticipate a claim, the reference must teach every element of the claim. . . ." Therefore, with respect to amended independent claim 1 to sustain this rejection the Reiley patent must contain all of the elements of the claims. However, Reiley does not disclose, for example,

- "a circumferential wall having a distal end". . . "the tool also comprising an extension that protrudes from the circumferential wall, beyond the distal end and forms a platform that is open in at least one radial direction."
- "expanding the expandable structure from the distal end towards the platform with the platform serving as a barrier to induce the expandable structure to expand away from the platform in the at least one radial direction"

As shown in FIG. 4 of Reiley, a catheter tube 50 has “a proximal and a distal end, respectively 52 and 54. The distal end 54 carries an expandable body 56.” (Reiley, col. 6, lines 46-48). Further, “the proximal end of the catheter tube 50 is preferably coupled by tubing to a source of negative air pressure 86. The negative pressure is conveyed through a second interior lumen 81 to one or more suction holes 88 on the distal end of the catheter tube 50. Prior to and during the expansion of the body 56, suction is applied to remove fats and other debris through the suction holes 88 for disposal.” (Reiley, col. 8, lines 54-58)



Thus, as can be seen in annotated FIGS. 4 and 5K(1), the circumferential wall of tube 50 extends all the way to the distal end 54. Reiley does not disclose an extension that protrudes beyond the distal end 54 of the circumferential wall. The Examiner's interpretation in the Office Action dated Oct. 31, 2007 locates the distal end at an intermediate point along the wall of the tube 50 not at its defined distal end 54, and thus is not supported by the specification.

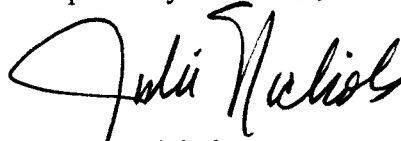
Since Reiley does not disclose an extension forming a platform, it likewise does not disclose expanding the expandable structure beyond the distal end towards the platform with the platform serving as a barrier to induce the expandable structure to expand away from the platform in the at least one radial direction. As seen in FIG. 4, the expandable body 56 does not expand toward a platform protruding from the circumferential wall. In the Examiner's interpretation in the Office Action dated Oct. 31, 2007, the identified platform is circumferentially enclosed and thus would prevent expanding the structure from the intermediate point along the wall identified as the distal end. Furthermore, the suction holes 88 of Reiley convey a negative pressure and thus would not serve to induce the expandable structure to expand away from the platform.

Therefore, for at least these reasons, claim 1 is believed to be allowable over Reiley and notice to that effect is respectfully requested. Claims 4, 12, and 23 depend from and further limit claim 1 and are therefore also believed to be in condition for allowance.

Conclusion

In view of the foregoing amendments and added claims, the Applicant respectfully requests further and favorable consideration of the present application. If the Examiner believes that examination of this application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8640.

Respectfully submitted,



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